



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 10/19/04

AGENDA ITEM 3

WORK SESSION ITEM

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Ordinance Amending Section 11-3.201, Article 3, Chapter 11 of the Hayward Municipal Code Relating to Public Sewer Connections in the Mt. Eden Annexation Area

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance.

BACKGROUND:

The ordinance was introduced at the October 12, 2004, meeting of the City Council with the following vote:

AYES:	Council Members:	Jimenez, Quirk, Halliday, Ward, Dowling, Henson
	Mayor:	Cooper
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on October 16, 2004. Adoption at this time is therefore appropriate.

Prepared by:


Angelina Reyes, City Clerk

Approved by:


Jesús Armas, City Manager

Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING SECTION 11-3.201, ARTICLE
3, CHAPTER 11 OF THE HAYWARD MUNICIPAL CODE
RELATING TO PUBLIC SEWER CONNECTIONS IN THE MT.
EDEN ANNEXATION AREA

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS. The proposed amendment establishes an exception to the provisions of the Public Utilities Chapter of the Municipal Code that requires connection to the public sewer system if a property is within 200 feet of such system. Specifically, the amendment would allow specified properties in the Mt. Eden Annexation area up to 10 years to connect to the public sewer system, provided certain conditions are met.

The City Council finds and determines as follows:

- A. The proposed amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge.
- B. The proposed amendment is in conformance with the purposes of all applicable, officially adopted policies and plans, since potential health hazards related to wastewater disposal for a limited number of properties would be addressed by requiring connection to the public sewer system should a private septic system fail.
- C. Streets and public facilities, proposed to be improved with annexation, are currently adequate to support the existing uses potentially affected by the amendment.

Section 2. SCOPE. The proposed amendment applies to properties in the Mt. Eden Annexation Area, which are identified in the attached map, Exhibit "A" and the attached list of potentially affected properties, Exhibit "B," incorporated herein by reference.

Section 3. AMENDMENT. Chapter 11, Article 3, section 11-3.201 of the Hayward Municipal Code related to requirements to connect to the municipal sewer system is hereby amended as follows:

"SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet

facilities therein, and to connect such facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

(a) Any owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:

- (1) Connection to the sewer at this time would be impractical due to personal hardship; and
- (2) The premises are now served by a septic tank; and
- (3) By written report of the Alameda County Department of Environment Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

(b) Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:

- (1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
- (2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and
- (3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating properly. Evidence can take the form of a visual inspection by a licensed plumbing contractor with experience in inspecting septic systems, the Alameda County Department of Environmental Health, or other qualified person as approved by the City.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic system

occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year time frame expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection."

Section 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. EFFECTIVE DATE. This ordinance shall apply only if annexation of the involved properties is approved, and shall become effective upon the effective date of such annexation.

Introduced at a regular meeting of the Hayward City Council held October 12, 2004, the above-entitled ordinance was introduced by Council Member Dowling.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on October 19, 2004, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: October 16, 2004

Angelina Reyes, City Clerk
City of Hayward